to higher operating frequencies through marketplace negotiations with PCS licensees, providing these licensees and the Commission fully satisfy their needs and concerns. See Letter from SDG&E attached as Exhibit C.

The City of San Diego, who formerly opposed the Commission's Notice, has acknowledged the potential benefits of relocation following discussions with PCNS-NY :

> Based upon successful negotiation of a detailed contract with a potential licensee of Personal Communications Services (PCS) and their being granted a license to develop a PCS system in this spectrum, the City would be willing to relocate our microwave facilities to higher frequencies. Accordingly, we support and commend the Commission's proposal to encourage market based negotiations of this type as a means of reallocating spectrum in the 1850-1990 MHz and 2110-2150 MHz bands to emerging technologies.
>
> The City is an active member of the Associated Public Safety Communications Officers (APCO) and have recently supported their opposition to proposals to reallocate this spectrum to other services for emerging technologies. However, the City can accept reallocation to other frequencies providing there is offsetting compensation; and we appreciate the special interest the Commission has shown towards the Public Safety community.

See Letter from the City of San Diego attached as Exhibit D. These letters, that are the product of direct negotiations between PCNS-NY and existing users unequivocally demonstrate the feasibility and value of the Commission's proposal to use flexible market based negotiations to reallocate spectrum to emerging technologies throughout the United States.

As these users recognize, in addition to the promising prospects for relocation, existing 2 GHz users can also benefit from and participate in PCS. PCS provides a potential new business opportunity for existing users. For example, existing

users could be early users of PCS. Police officers and utility field personnel could have access to PCS networks that provide enhanced high performance systems at reduced cost. Utilities, railroads and pipeline companies, with their current rights-of-way are in a position to provide access to shared rights-of-way or lease existing capacity that will generate additional revenue and eventually lower the costs that must be absorbed by ratepayers.

C. The Commission Should Not Inhibit Flexibility in Negotiations by Imposing Restrictions

In the Notice, the Commission seeks comment on whether it should impose any restrictions on marketplace negotiations. PCNS-NY's experience suggests that flexibility is critical to such an approach. PCNS-NY has found that the first two components of the Commission's transition plan, approval of new license applications for OFS in the 2 GHz band on a secondary basis only and incorporation of a fixed time frame for discontinuation of the existing users' primary status, are necessary and have contributed directly and substantially to the willingness of existing users to negotiate. As outlined by the Commission, the three part transition plan is sufficient to encourage good faith and fair negotiations between existing users and emerging technology licensees.[21/] Accordingly, PCNS-NY

[21/] The initial revenue stream for PCS is estimated at $40 billion. Clifford A. Bean Arthur D. Little En Banc Hearing Presentation at 7 (December 5, 1991). The size of the potential market will instill PCS licensees with an incentive to negotiate

(continued...)

submits that with the first two phases of the transition plan in place (particularly the established transition period), there is no need for further restrictions.

As the PCNS-NY negotiation model suggests, each proposal for relocation must be uniquely tailored to meet the communications needs of each migrating licensee. For example, in PCNS-NY's experience some users have requested fiber optics while others have expressed a preference to relocate to specific frequencies. In one other region certain public safety organizations have standardized their microwave communications at 6 GHz. The Commission's proposal has presented the opportunity for another public safety organization that has an aging network with some of its links at 2 GHz to upgrade its facilities to 6 GHz to be compatible with the other public safety organizations at no cost to the taxpayer. In light of the unique nature of each proposal, it would be difficult to develop rules or guidelines that would contemplate all of the possible circumstances. In fact, imposing restrictions blindly could impede the flexibility necessary to facilitate negotiations to relocate outside of the 2 GHz band.

[21/](...continued)
relocation agreements with existing users. The estimated substantial market for new emerging technologies provides sufficient incentive for new licensees to negotiate in good faith to gain access to the maximum available spectrum for their new services.

III. RELOCATION OF EXISTING 2 GHz USERS TO HIGHER FREQUENCIES IS FEASIBLE AND WILL NOT DEGRADE COMMUNICATIONS CAPABILITIES

Many current users of the spectrum opposed to the Commission's proposal argue that relocation to higher frequencies is not a viable option because those bands are ill-suited to fulfill their communications needs and will degrade their communications capabilities. PCNS-NY submits that adequate capacity exists at higher frequencies to accommodate existing users with some modification of the channelization and loading requirements at the 4 and 6 GHz bands. In this regard, PCNS-NY supports the proposal of Utilities Telecommunications Council and the Alcatel Network Systems, Inc. to change the technical rules in the 4 and 6 GHz bands to the extent necessary to facilitate the relocation of existing 2 GHz users to higher frequencies. PCNS-NY encourages the Commission to address this issue within the context and procedural schedule of this proceeding. Delay in this proceeding to address separately the technical issues is unnecessary and will harm the competitive position of our telecommunications service and manufacturing sectors.[22/]

With these technical rule changes in place, PCNS-NY believes that all existing 2 GHz users can be adequately accommodated with reliable systems in the 4 and 6 GHz bands and higher frequency bands where feasible. A number of technical studies have

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[22/] At the En Banc hearing, NERA estimated that the delay in the cellular proceeding cost the United States $86 billion. See En Banc Hearing Testimony of Dr. Charles L. Jackson at 4 (December 5, 1991).

concluded that sufficient capacity exists in the 4 and 6 GHz bands to accommodate existing 2 GHz users. In particular, the Office of Engineering and Technology's study[23/] that forms the basis of the Notice examined three factors in assessing the available capacity in the 4 and 6 GHz bands: 1) the number of facilities to be relocated; 2) the location of those facilities; and 3) the capacity available for relocation of spectrum at that location.[24/] The study identified approximately 9,000 fixed microwave facilities in the 1850-1990 MHz band and ascertained that the vast majority of the country is only moderately to lightly densely occupied by 2 GHz microwave facilities.[25/] The FCC Study then estimated the excess capacity available in the 4 and 6 GHz bands and compared them to the current capacity of the 2 GHz band. Based on these comparisons, the FCC Study concluded that 4 and 6 GHz bands are capable of fully accommodating the relocation of all of the 2 GHz band transmitters.[26/] In addition, PCNS-NY believes that higher frequency bands like the 10, 18 and 23 GHz can be used for migration purposes.

One of the advantages of relocating OFS users recognized by the Commission is the existing allocation of spectrum in the

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[23/] Creating New Technology Bands for Emerging Telecommunications Technology, OET/TS 91-1 ("FCC Study").

[24/] FCC Study at 24.

[25/] FCC Study at 19.

[26/] FCC Study at 24.

higher frequencies to microwave services.[27] The 4 and 6 GHz bands are currently used in private networks, utilities and public safety organizations, and the common carrier networks of AT&T and MCI.[28] Despite the claims of certain utility companies, if engineered appropriately, microwave operations on the 4 and 6 GHz bands will provide reliability equivalent to the 2 GHz band. In fact, many utilities are extensive users of the 4 and 6 GHz bands. In its negotiations, PCNS-NY has not encountered any resistance to relocation to the 4 and 6 GHz band.[29] Indeed, one user has expressed a preference for the 6 GHz band.

The reliability of microwave systems in frequencies other than 2 GHz is confirmed in an expert opinion provided to PCNS-NY by Thomas L. Leming. Mr. Leming was the Senior Vice President of Engineering at MCI from 1971 to 1986 and responsible for the engineering design and construction of MCI's interexchange microwave network. Mr. Leming has engineered, designed and installed microwave networks using frequencies in the 2, 4, 6, 11, 13 and 18 GHz bands throughout the United States. Based on his wealth of knowledge and actual network design experience, it is the opinion of Mr. Leming that microwave networks relocated from the 2 GHz to the 4 and 6 GHz, and higher frequency bands can

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[27] See Notice at ¶ 20.

[28] See Opinion of Thomas L. Leming, former Senior Vice President of MCI attached as Exhibit F.

[29] PCNS-NY encourages existing users to use available frequencies above 10 GHz for paths shorter than 10 miles.

be engineered to provide equivalent reliability. See Opinion of Thomas L. Leming attached as Exhibit F.

IV. THERE IS NO OTHER VIABLE ALTERNATIVE TO MARKET-BASED NEGOTIATIONS THAT WILL FACILITATE IMMEDIATE AND EFFICIENT INTRODUCTION OF PCS

The Commission's Notice invites comment on the feasibility of using government spectrum for relocation of the existing 2 GHz operations.[30/] In the Notice, the Commission determined that a reallocation of government spectrum for use by the emerging technologies would delay the introduction of new technologies but requested comment on the possible use of government spectrum as a future resource. The FCC has initiated discussions with NTIA on this issue.[31/] PCNS-NY believes that the Commission's conclusion that the availability of government spectrum would inhibit the timely introduction of emerging technologies is on target, especially for PCS. Although government spectrum in the 1710-1850 MHz band may provide an alternative to relocation to higher frequency bands, it would not solve the problem of providing spectrum for the development of PCS for the reasons recently outlined in a letter from the National Telecommunications and Information Administration ("NTIA") to Chairman Sikes.

The amount of spectrum actually available in 1.70 to 1.85 GHz band for commercial applications is not specified in NTIA's

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30/ Notice at ¶ 21.

31/ Notice at ¶ 11, n.11.

report on the use of this band. In a letter to the FCC, NTIA unequivocally states that government spectrum located in the 1.71-1.85 GHz and the 2.2-2.29 GHz bands are not under utilized as suggested by parties who have sought to delay this proceeding by debating the possible use of this spectrum.[32/] The NTIA report describes only systems that are unclassified. The study does not disclose sensitive uses of the band for national defense or other classified services. Thus, no valid conclusions concerning use of spectrum in government bands can be reached on the basis of the systems identified in the NTIA study. According to the NTIA letter, the 1.71-1.85 GHz band is also used for numerous government communications that require greater geographic separations between systems than is normally required between point-to-point fixed microwave links in the non-government bands.[33/]

Further, despite the suggestion of the Utilities Telecommunications Council ("UTC"), the Association of American Railroads ("AAR"), the Large Public Power Council ("LPPC") and the American Petroleum Institute ("API")[34/], the availability of

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[32/] See Petition to Suspend Proceeding, ET Docket No. 92-9 (filed by the AAR, LPPC and API April 10, 1992), Petition for Rulemaking, filed by the Utilities Telecommunications Council, March 31, 1992.

[33/] See NTIA Letter to FCC dated May 4, 1992 at 3. The 1.7-1.85 GHz band is used for management, safety, law enforcement, satellite control, air combat training and military area-wide command and control systems such as the space shuttle.

[34/] See Petition to Suspend Proceeding, ET Docket No. 92-9 (filed by the AAR, LPPC and API April 10, 1992), Petition for Rulemaking, filed by the UTC, March 31, 1992.

government spectrum for emerging technologies would not obviate the need for relocation of microwave users. As the Commission recognizes, the current requests for spectrum already exceed the 200 MHz of government spectrum under consideration in the Emerging Telecommunications Technologies Act of 1991, (H.R. 531)[35/] and its companion S. 218,[36/] and the 140 MHz identified as being less extensively used by the NTIA report.[37/] Further, since there is no guarantee that spectrum will be allocated by Congress this year and no indication of where the new spectrum will be located, consideration of government spectrum as a resource for PCS and other technologies ripe for introduction would be imprudent and contrary to the Commission's mandate to expedite the introduction of emerging technologies.

First, the process of obtaining release of the spectrum from the government would substantially delay the introduction of PCS to the detriment of American consumers and entrepreneurs and result in inefficient use of scarce spectrum. For example, Congress has been attempting to reallocate government spectrum to

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35/ See H.R. 531, 102d Cong., 1st Sess. (passed July 9, 1991 by House of Representatives. To effect this goal, H.R. 531 proposes a framework to establish National Spectrum Planning through a series of reports identifying frequencies available for redesignation to be prepared by the FCC, NTIA, the Secretary of Commerce and the President's Office starting one year after the date of enactment up to four years after enactment.

36/ See S. 218, 102d Cong., 1st Sess. (reported May 14, 1991, by Senate Committee on Commerce, Science and Transportation and awaiting consideration by the full Senate), S. Rep. No. 93, 102d Cong., 1st Sess. (1991).

37/ See Notice at ¶ 11, n.11.

new technologies for the last three years.[38/] Currently pending in Congress are new versions of H.R. 531 and its Senate companion S. 218.

Although laudable in their goals, the bills underscore the Commission's conclusion that the availability of government spectrum is too uncertain to consider allocating in this proceeding. Like the earlier Emerging Technologies Act, H.R. 531 and S. 218, propose to redesignate 200 MHz of spectrum currently allocated to the Federal Government to the FCC to meet the current deficiency in radio spectrum for new telecommunications products and services. Mired in a myriad of tangential debates involving spectrum auctions and whether spectrum shared between government and non-government users will be included in the 200 MHz of spectrum to be reallocated, over a year has passed since the introduction of both bills and Congress still has not enacted legislation that all agree is critical to maintaining America's lead in the telecommunications industry.[39/]

Moreover, the Commission should recognize that use of government spectrum as an option for relocation of existing 2 GHz

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[38/] The first Emerging Technologies Act, introduced in 1989, proposed to reallocate 200 MHz of spectrum from government use to private use. The Act was never reported out of Committee because of strong opposition from the NTIA.

[39/] Even if the pending legislation was enacted tomorrow, the process of reallocation could take up to 15 years. As currently drafted, the legislation provides the Secretary of Commerce two years to merely identify frequencies that could be reallocated to the private sector. Those frequencies would include frequency bands that may not be available for up to fifteen years from now. The American public simply cannot afford to wait fifteen years for the introduction of new technologies such as PCS.

users could also potentially delay introduction of emerging technologies by complicating the market-based negotiations process. Foreseeably, if an existing 2 GHz user selected specific frequencies in the government band for relocation and a government system is operating in that band, the new licensee would have to negotiate and finance both the government's move out of the band and the relocation of the 2 GHz user. This would delay negotiations and increase the capital investment necessary to introduce PCS thereby increasing the cost of PCS to the American consumer. Such an eventuality would not be in the public interest. Accordingly, if the Commission elects to consider government spectrum, it should ensure that the bands in question are not currently in use by the government.

PCNS-NY believes it is imperative that the Commission commit fully to the provision of spectrum for the introduction of new technologies. The Commission's Notice acknowledges this fact when it unequivocally states "it is in the best interest of the United States to make spectrum available for the development of new services and technology."[40/] The Commission must not waiver from or compromise this resolve by allowing its attention to be diverted from establishing the emerging technologies band to a discussion on the availability of government spectrum.

40/ See, Notice at ¶ 6.

V. MIGRATION THROUGH MARKET-BASED NEGOTIATIONS WILL BE FOSTERED BY THE TRANSITION PLAN PROPOSED BY COMMISSION AND PROVIDE FOR THE INTRODUCTION OF NEW TECHNOLOGIES IN DIFFERENT MARKETS AS APPROPRIATE

A. PCNS-NY Supports Grant of Secondary Status to New Applicants for Microwave Licenses in 2 GHz

In an effort to ensure the continued availability of existing unused spectrum in the 2 GHz band, the Commission's Notice proposes to grant all applications for new facilities submitted after January 16, 1992 on a secondary basis subject to the outcome of this proceeding is concluded.[41/] PCNS-NY concurs with the Commission's conclusion that all new applications for microwave facilities in the specified bands must be granted on a secondary basis to allow for an orderly phase-in of new uses of the band.[42/] In PCNS-NY's view, this proposal will discourage the filing of speculative applications, facilitate the necessary relocation of existing users out of the band and prevent the need for future relocation of additional microwave systems. Moreover, this policy fosters expedited relocation of existing users of the band who desire to expand their networks. Accordingly, the Commission's decision to adopt this secondary status policy effective January 16, 1992 is an appropriate procedural rule and within the ambit of the Administrative Procedure Act.[43/]

41/ Notice at ¶ 23. See also footnote 10.

42/ See Notice at ¶ 24.

43/ See 5 U.S.C.A. § 553(d)(2) (1966); see also Kessler v. FCC 326 F.2d 673, 117 U.S. App. D.C. 130 (1963). (Upholding order (continued...)

New services cannot be implemented efficiently if they must fight with existing services for small slivers of spectrum on a co-primary basis. Conferring secondary status to applications for new facilities as of January 16, 1992 is not only consistent but necessary to ensure the availability of currently unused spectrum in the 2 GHz band for the emerging technologies band. The Commission cannot allow its recent modification of the secondary status policy[44/] to become a loophole for existing users to become more firmly entrenched in the 2 GHz band. PCNS-NY recognizes that this exemption will be made only upon a "valid showing of its need for the facilities." PCNS-NY urges the Commission to strictly scrutinize all waiver requests.

B. Use of the 2 GHz Band on a Co-primary Basis is Not Feasible

If relocation is not accomplished prior to the operation of the new service, existing users and the new licensees will share the band for a pre-determined period with equal rights to the band. Sharing of the band on a co-primary basis is not feasible and not acceptable to the majority of existing 2 GHz users. In negotiations with existing users, PCNS-NY has been informed

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[43/] (...continued)
freezing the acceptance of applications for radio broadcast stations pending the adoption of new rules as a procedural rule not subject to notice and comment under the Administrative Procedure Act); Neighborhood TV Company, Inc. v. FCC, 742 F.2d 629 (D.C. Cir. 1984) (holding that FCC's decision to freeze applications for opposed translator stations was a procedural rule not subject to the Notice and Comment provisions of the Administrative Procedure Act).

[44/] See Footnote 10 supra.

uniformly by these existing users that they cannot tolerate any interference. Despite hopeful claims of sharing technologies, no sharing technique has yet been proven to meet that standard. When presented with the option to relocate to higher frequencies at no cost or to share spectrum with new services, existing users have consistently advised PCNS-NY of their strong preference for relocation because of their belief that existing and new systems will inevitably interfere with each other. Allocating the band on a co-primary basis will simply defer the battle for control of the band because ultimately either the new or the existing services would have to be relocated to resolve interference problems.[45/] Accordingly, the decision should be made now to conserve Commission and industry resources and to expedite efficient and economical introduction of new services to the public through relocation rather than sharing.

The Notice suggests a transition period of 10 to 15 years during which existing users and new technology users would share spectrum, on a co-primary basis, because it would allow current users to exhaust the useful life of existing equipment and provide for a complete amortization of existing 2 GHz equipment.[46/] The Commission's focus here is wrong. The transition period should be determined by the time necessary to

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[45/] See also Reply Comments of Motorola Gen. Docket 90-314 at 39 (filed January 15, 1991), ("[T]he prospects for broad-scale sharing, and certainty for wide-area systems, in the 1850-1990 MHz band are not promising.").

[46/] See Notice at ¶ 24.

complete migration not on the useful life or the amortization schedule of the equipment.[47/]

If the Commission elects to allocate the 2 GHz band to new technologies on a co-primary basis, PCNS-NY submits that co-primary status on the 2 GHz band should be permitted only for a fixed period of time no longer than the reasonable time required to complete the relocation process which is estimated to be three years. After three years, existing facilities should continue to operate in the 2 GHz band on a secondary basis only. This time frame provides an adequate transition period for the negotiation and implementation of relocation agreements for the entire band.

[47/] PCNS-NY has been advised that accounting principles will permit existing licensees to fully amortize their old equipment even if it is replaced under a relocation agreement. Specifically, APB 29 provides that the exchange of a nonmonetary asset between an enterprise (like itself) and other entity (communications company) is based on the recorded amount of the nonmonetary asset relinquished. Under APB 29, the existing user would keep the same book value of the asset relinquished despite replacement by a new licensee and therefore could continue to depreciate replaced equipment.

VI. MARKET-BASED NEGOTIATIONS IN CONJUNCTION WITH THE PROPOSED TRANSITION PLAN IS THE BEST WAY TO MEET THE NEEDS OF EXISTING USERS AND USHER IN NEW TECHNOLOGIES

Migration of existing users from the 2 GHz band is the most efficient way to usher in new technologies. The Commission has proposed two alternatives to the three step transition plan: 1) a phased spectrum implementation approach; or 2) continued co-primary sharing of the band by existing users and new licensees with "voluntary" migration. The Commission's proposed alternatives are both inferior to the three step transition plan. Neither of these alternatives strikes the appropriate balance between minimizing disruption of existing services, providing an incentive for relocation and creating spectrum for the efficient introduction of new services. Both of the proposed alternatives are likely to slow down rather than expedite the introduction of new services in the United States.

A. A Phased Spectrum Implementation Approach is Contrary to the Public Interest and Inferior to the Three Step Transition Plan Proposal

Under the phased spectrum implementation approach suggested by the Commission, specific blocks of the 220 MHz of spectrum identified for relocation would be made available for new services at specified intervals.[48/] This alternative to the three step transition plan does not provide a viable spectrum solution for PCS. PCS will require a significant amount of spectrum to permit economically efficient introduction of the

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[48/] See Notice at ¶ 27. The Commission suggests that 50 to 70 MHz of spectrum could be made available for new services at specified intervals.

service. Reallocation of spectrum in blocks of 50-70 MHz is not sufficient to accommodate the introduction of PCS especially if the initial block of spectrum is divided among several emerging technologies competing for access to the spectrum and not allocated exclusively to PCS.

As proposed by the Commission, adoption of the phased-in proposal would also eliminate market-based negotiations and therefore existing microwave users would not be compensated for the costs of relocation. Without such compensation, existing licensees would have to finance their own relocation. In essence, this phased-in approach would be tantamount to the "band clearing" which the Commission has attempted to avoid.[49/]

In addition, as contrasted with the marketplace component of the transition plan, the phased-in proposal would require all users in the reallocated portion of the band to relocate immediately and not permit their continued operation in the band even on a secondary basis.[50/] This would eliminate the possibility of continued operation in the band by some rural users who could foreseeably operate satisfactorily on a secondary basis. Under the marketplace approach, existing users that are not in heavily congested markets would have more time to transition out of the band and could remain in the band on a secondary basis indefinitely.

[49/] See Notice at ¶ 6.

[50/] In this regard, PCNS-NY recommends that until approached with a specific written proposal from PCS licensee, that rural 2 GHz users remain indefinitely as co-primary.

B. Continuous Co-Primary Use of the 2 GHz Band is Untenable If New Technologies Are to be Efficiently Implemented

The proposal to permit continuous co-primary use of the band is likewise inferior. Adoption of this proposal would undermine the Commission's expressed goal of fostering the introduction of new technologies and specifically impede the full scale introduction of PCS. As detailed in Section II C, removal of a definite time for relocation out of the band would undermine any attempts at negotiations. Contrary to the Commission's intent, under this alternative approach, existing users could hold out for "premium" or a "windfall profits" before they would agree to move out of the band.[51/]

Sharing the band on a co-primary basis is untenable if efficient and economical implementation of new services such as PCS is to be achieved. In addition, sharing technologies have not been demonstrated to provide adequate interference protection for existing users. The Commission must maintain its commitment to the introduction of new services and make a difficult yet necessary decision now. Reallocating the band on a co-primary basis for use by new technologies would simply set the stage for future proceedings as existing and new services vie for control of the band.

[51/] Notice at ¶ 26, n. 20.

C. The Commission Could Begin the Relocation Process By Allocating Spectrum in the Top 30 Markets

Alternatively, as an added measure of flexibility, PCNS-NY proposes that the Commission initially allocate spectrum for emerging technologies to the top 30 markets as defined by demand for services and frequency congestion.[52/] There are a number of benefits to this proposal. First, the new services could be introduced where there is the most demand. This would allow new services like PCS to hit the ground running with a large customer base able to pay for the cost of introducing the services. Second, the process of relocation would begin with the highly populated areas where a greater need for clear spectrum and relocation exists. Third, these are the markets where PCS entrepreneurs have been testing their systems and have the information required to quickly introduce the new services. Finally, this approach would provide an extended time frame for rural users and users in less congested markets to relocate out of the band. Further, spectrum allocation in the top 30 markets would provide the Commission with an opportunity to assess the effectiveness of its transition plan and make any necessary refinements for the remaining markets.

[52/] See Memorandum, Opinion and Order on Reconsideration, CC Docket No. 79-318, 89 FCC 2d 58, 87 (1982). In Docket 79-318 the Commission prioritized the processing of cellular applications by the top 30 markets in order to relieve mobile service congestion in the specified spectrum bands.

VII. PCS MEETS THE COMMISSION'S CRITERIA FOR DETERMINING ELIGIBILITY FOR ALLOCATIONS FROM THE EMERGING TECHNOLOGIES BAND

The Commission's Notice states that "frequencies in the emerging technologies band would be intended primarily for use by new services made possible through technological advances but also be available for expansion of existing services."[53/] The Commission continues that at "a minimum requests for operation of new services in these bands should demonstrate that the service makes innovative use of a new technology and that the technology is most appropriately suited to operate in the 2 GHz region."[54/] PCS services clearly meet the criteria for allocation of spectrum from the band.

PCS will make innovative use of new digital technologies to meet the public demand for PCS and other new service offerings. The Commission is correct in concluding that PCS technology is appropriately suited to operate in the 2 GHz band.[55/] The propagation characteristics are well suited for digital technology developed for PCS. The Commission has already concluded that the first allocation in the emerging technologies band will be for PCS.[56/] Introduction of this eagerly awaited new service is directly linked to this proceeding. Accordingly,

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53/ Notice at ¶ 28.

54/ Id.

55/ See Notice at ¶ 29; see also Policy Statement and Order, Gen. Docket No. 90-314, 6 FCC Rcd. 6601 (1991).

56/ See Notice at ¶ 29.

the Commission should avoid any attempts to delay the conclusion of this proceeding.

VIII. THE COMMISSION SHOULD PROCEED QUICKLY WITH PCS THROUGH MIGRATION

PCNS-NY's experience in negotiating relocation proposals with existing users in the 1850-1990 MHz band demonstrates that the marketplace proposal will work. The Commission should move forward with its transition plan and permit financial arrangements between existing and emerging technology licensees to expedite the introduction of PCS to American consumers. Further, relocation will create new equipment manufacturing opportunities for American equipment manufacturers. Migration out of the 2 GHz band would energize both the existing microwave manufacturers who would shift production to manufacture equipment capable of operating in the higher bands and provide opportunities for new manufacturers of PCS equipment. Further, implementation of PCS will also provide new service sector and manufacturing jobs.

Manufacturers will benefit from the certainty that results from an FCC decision in the immediate future. As the nation attempts to emerge from the grip of a recession that has caused the highest job loss in the New York Metropolitan area in half a century[57], this "industry in waiting" must be galvanized by the

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[57] Joe Krakoviak, *Job Loss Highest In Half-Century*, N.Y. Times, April 16, 1992 at A1; Sarah Bartlett, *New York Logs 500,000 Jobs Lost Since 1989, a Record High*, N.Y. Times, April 16, 1992 at B1.

Commission. The Commission must move forward with the adoption of a Notice of Proposed Rulemaking on PCS in order to maintain its place as a leader in telecommunications. Both Europe and Japan are rapidly moving forward with various versions of wireless mobile communications. As the Commission's Notice recognizes, wireless mobile communications currently in development include the British CT-2 advanced cordless telephone and CT-3 microcellular systems, Europe's General Special Mobile ("GSM"), and Japan's "Handyphone" service.[58/] To ensure the continued development of these technologies, these countries have moved to allocate spectrum between 1 and 3 GHz for mobile services that use new technologies. The WARC allocation process has earmarked spectrum in the 1-3 GHz bands for worldwide implementation of PCS and other radio based emerging technologies.[59/] The U.S. must quickly follow suit and allocate spectrum to new technologies or risk losing its leadership position in the telecommunications industry.

[58/] See Notice at ¶ 5.

[59/] See generally, Final Acts of the World Administrative Radio Conference (WARC-92), Magala-Torremolinos, available in An Inquiry Relating to Preparation for the International Telecommunication Union World Administrative Radio Conference for Dealing With Frequency Allocations in Certain Parts of the Spectrum, Gen. Docket 89-554 (March 1992).

IX. CONCLUSION

PCNS-NY urges the Commission to proceed with emerging technologies docket and adopt its three phase transition plan as proposed. The transition plan provides the right amount of flexibility to safeguard existing users' interests while creating new spectrum for the introduction of emerging technologies. In particular, PCNS-NY urges the Commission to move with all deliberate speed to implement its innovative marketplace approach to relocation. PCNS-NY's actual experience has proven that this approach will work to facilitate efficient introduction of new services while minimizing the impact on current users of the 2 GHz band.

PCNS-NY further urges the Commission to proceed with the adoption of a Notice of Proposed Rulemaking on PCS in the near future.

Respectfully submitted,

PERSONAL COMMUNICATIONS NETWORK
SERVICES OF NEW YORK, INC.,
A LOCATE COMPANY

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Dated: June 8, 1992

LIST OF EXHIBITS

Exhibit A Letter from Suffolk County Police Department to FCC Chairman Alfred C. Sikes dated April 27, 1992.

Exhibit B Letter from Long Island Lighting Company to FCC's Office of Engineering and Technology dated April 29, 1992.

Exhibit C Letter from San Diego Gas and Electric to FCC's Office of Engineering and Technology dated May 29, 1992.

Exhibit D Letter from City of San Diego to FCC Secretary Donna R. Searcy dated May 26, 1992.

Exhibit E Letter from The Port Authority of New York and New Jersey to R.C. Roos dated November 14, 1992.

Exhibit F Letter from Thomas L. Leming to Craig Roos dated June 5, 1992; Resume of T.L. Leming.